
From: Kevin Koc <kkoc@meyerslaw.com>
Sent: Thursday, April 7, 2022 12:23 PM
To: Reitz, Kurt
Subject: CONFIDENTIAL: SETTLEMENT COMMUNICATION DEAN V NORFOLK

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Kurt,

A little while back, we discussed Plaintiff making an opening settlement offer in this case in connection with a discussion we had about the various EEOC proceedings going on and the EEOC's suggestion of engaging in mediation. I am not 100 percent sure where things are at with the EEOC (also be advised that Mr. Dean has filed a claim with OSHA alleging retaliation as a result of his filing for his FELA claim and I am happy to send over information to you about that claim for your information. As part of that filing, OSHA has sent a request to the parties regarding participating in the OSHA ADR Program) but I have received authorization to make the following opening demand:

As reflected in Mr. Dean's interrogatory responses, through the end of 2024, Mr. Dean's estimated lost wages equal \$629,500. It is not at all improbable that Mr. Dean will be able to make a showing of lost wages through 2024 since NSR has routinely rejected his attempts to regain his management status, and further, the demotion has tarnished his reputation such that he could not even obtain a Trainmaster level role with CSX Railway. Mr. Dean could also reasonably recover \$350,000 for punitive damages and reputational damages on his disability discrimination and retaliation claims as a result. The calculations of losses do not include Mr. Dean's lost benefits, which as a Terminal Superintendent were substantial (cell phone, company vehicle, officer's pension) or the value of a lost early retirement. Mr. Dean anticipates hiring a damages expert to better quantify the value of these losses before a jury. In addition, considering the average award for a FELA claim is approximately \$500,000, Mr. Dean's FELA claim, plus an award of attorney's fees for Plaintiff's discrimination and retaliation claim presents a potential exposure to Defendant of over \$1.5 million dollars in the event of a favorable Plaintiff's verdict.

As your client has likely advised Mr. Dean will not only be an excellent witness, as a former high level manager, he is aware of the company's past practices as well as its antipathy toward individuals who take medical leaves. Considering all these factors, Mr. Dean has authorized me to make an opening offer of \$1,275,000 and a promotion back into a mutually agreeable management position in exchange for a settlement of all claims pending against NSR along with reasonable cooperation with respect to his claims against CSX Railway.

Regards,
Kevin Koc

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